

# Exhibit A



Deposition of:  
**Robert McMeeking , Ph.D.**

*July 6, 2017*

In the Matter of:  
**In Re: Bard IVC Filters Products  
Liability**

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1 market.

2 BY MS. DALY:

3 Q Is it your opinion that Bard failed to  
4 reduce as far as reasonably practicable the  
5 remaining risks by taking adequate protection  
6 measures?

7 A Can you repeat the question, please.

8 Q Yes.

9 Is it your opinion that Bard failed to  
10 reduce as far as reasonably practicable the  
11 remaining risks by taking adequate protection  
12 measures?

13 MR. O'CONNOR: Form and foundation.

14 THE WITNESS: In certain of the designs of  
15 the filters those risks, in my opinion, were not  
16 reduced to the extent practicable, and I would say  
17 that that applies to all of the models that we are  
18 discussing in the -- in the present case.

19 BY MS. DALY:

20 Q And which risks do you identify -- that  
21 you have an opinion that Bard failed to reduce?

22 A The risks of tilting, perforation,  
23 migration and fracture by fatigue.

24 Q Have you determined by any research or any  
25 other method that any other manufacturer of

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1 percutaneously retrievable IVC filters have been  
2 able to reduce as far as reasonably practical --  
3 practicable by taking adequate protection measures  
4 any of those risks you just identified?

5 MR. O'CONNOR: Form and foundation.

6 BY MS. DALY:

7 Q In filters.

8 A I have not investigated that in many  
9 cases, and in other cases I'm under restrictions in  
10 terms of what I can say when I have been involved  
11 in investigating that.

12 Q Do you rely on any of the work that you  
13 have done that you cannot talk to me about for your  
14 opinions in this case?

15 A No.

16 MR. O'CONNOR: Form.

17 BY MS. DALY:

18 Q So anything that you have learned either  
19 as a consulting expert or a retained expert with  
20 respect to other IVC filters you do not rely on for  
21 your opinions in the Bard litigation?

22 A Yeah, I do not rely on that other  
23 information.

24 Q Okay. And I'm aware that you've been  
25 retained in the Cook litigation.

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1 A That's correct, yes.

2 Q Because that's been public. Okay.

3 I think you just said a moment ago that  
4 with respect to all of Bard's retrievable filters,  
5 that is from the Recovery to the Denali, that it is  
6 your opinion that Bard has not done what is  
7 reasonably practicable to take adequate protection  
8 measures against tilt, perforation, migration and  
9 fracture?

10 A That's correct.

11 Q Okay. Is it your opinion that the various  
12 modifications that Bard has made along the way to  
13 its retrievable IVC filters did nothing to reduce  
14 the risks associated with either tilt, perforation,  
15 migration or fracture?

16 MR. O'CONNOR: Form.

17 THE WITNESS: The -- some of the changes  
18 that were made would have some effects on one or  
19 more of those phenomena that can take place in  
20 filters, and in some cases it's unclear whether the  
21 measure taken had the effect intended, but -- but  
22 there would have been some benefits from some of  
23 the changes which were made.

24 BY MS. DALY:

25 Q Have you specifically modeled any filter

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1 from the G2X, Eclipse, Meridian or Denali models?

2 A I've modeled the G2X. I have modeled all  
3 of the filters in the sense that I've made the  
4 assessment that they all have similar  
5 characteristics and, therefore, in certain of the  
6 aspects of the behavior, the response will be the  
7 same -- will be very similar in each of the  
8 filters.

9 Q When you say "model," with respect to the  
10 G2X on to the Denali, you've looked at design  
11 drawings, correct?

12 A Correct.

13 Q And you've taken -- you've looked at the  
14 measurements of the, you know, length of legs or  
15 width of legs, those sorts of things, correct?

16 A Well, I've relied on the engineering  
17 drawing to give me the values of those lengths.

18 Q So in that sense you've -- you've modeled  
19 from the design drawings, correct?

20 A Well, I should -- I should clarify my  
21 response.

22 I have looked at those drawings and I've  
23 compared all the filters with each other in terms  
24 of their size and shape and so on, and then that  
25 has allowed me to make a deduction that my modeling

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1 of the G2 and the G2X is representative of the  
2 behavior that one would expect to see in the models  
3 namely the Eclipse, the Meridian and the Denali.  
4 Although not exactly the same, there would be  
5 similar behavior in each of these other three  
6 filters.

7 Q Have you done any FEAs specific to the  
8 Eclipse, the Meridian or the Denali?

9 A I have not done FEA analysis specific to  
10 the Eclipse, Meridian and Denali.

11 Q And you have not done work that would tell  
12 you what the specific modifications of filters that  
13 Bard has -- has included would do with respect to,  
14 for example, loads on the filter, strains that the  
15 filter is --

16 A I have not --

17 MR. O'CONNOR: Form and foundation.

18 BY MS. DALY:

19 Q Let me finish.

20 MR. O'CONNOR: Let her finish the  
21 question.

22 BY MS. DALY:

23 Q Let me finish.

24 -- strains that the filter sees or loads  
25 that are put on those filters?

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1 MR. O'CONNOR: Form and foundation.

2 THE WITNESS: I have not done any  
3 calculations that specifically identify the  
4 detailed differences that would occur because of  
5 the design changes going from the G2X through to  
6 the Denali.

7 BY MS. DALY:

8 Q So going back to the language of the  
9 standard, on what do you base your opinion that  
10 Bard has not done what is reasonably practicable to  
11 take appropriate protection measures in any of its  
12 retrievable filters against the complications that  
13 you identified?

14 A Well, part of the issue is that they  
15 should have taken certain measures sooner than they  
16 ultimately did and that the measures that they  
17 eventually took were not necessarily effective at  
18 reducing the risk to the extent practicable and  
19 they didn't investigate the consequences -- they  
20 didn't investigate thoroughly the consequences of  
21 the trade-offs that were involved in the design  
22 changes to modify the filters from the G2  
23 through -- G2X through to the Denali.

24 Q How would they have done that differently?

25 A Well, they would have done more



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1 efforts that Bard made to add these anchors and  
2 limiters that were unsuccessful initially and more  
3 changes had to be made?

4 MR. O'CONNOR: Form.

5 THE WITNESS: I do know that some of the  
6 designs of the caudal anchors that they  
7 investigated did not work as well as others.

8 BY MS. DALY:

9 Q The other thing you talked about was that  
10 Bard could have redesigned the configuration of its  
11 filters. It was a little vague to me. What do you  
12 mean by that?

13 A Well, I mean the -- the shape of the  
14 limbs, the dimension of the limbs, in other words  
15 their -- their diameter, they could have considered  
16 different numbers of limbs, they could even have  
17 considered moving to a different material. So  
18 there's a fairly large number of design choices  
19 that could have been considered, and they could  
20 well have come up with a combination of features in  
21 the design that gave them a better combination  
22 of -- of phenomena in terms of how the filter  
23 behaved.

24 Q Do you know -- are you aware of any steps  
25 that Bard took along the way from Recovery to

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1 didn't have them at that time. So you don't know?

2 A I don't know.

3 MR. O'CONNOR: Form.

4 BY MS. DALY:

5 Q Having looked at the Denali filter, you do  
6 see that there are some differences in that filter  
7 than the previous ones, true?

8 A Yes, that's correct.

9 Q Okay. Is it your opinion that Bard has  
10 failed to reduce as far as reasonably practicable  
11 by taking adequate protection measures risks of  
12 tilt, perforation, fracture and migration in the  
13 Denali?

14 A Yes.

15 Q And what's the basis for that?

16 A Because you still see incidences of all of  
17 those phenomena in Denali filters.

18 Q We'll -- we'll talk about that further  
19 later.

20 You have not undertaken to compare  
21 reported rates or reported incidents, let's put it  
22 that way, reported numbers of incidents of any of  
23 the complications you've identified in the various  
24 ones of the Bard filter models, have you?

25 A No, I have not done that.

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1 fracture known and foreseeable risks of IVC  
2 filters?

3 A Of many IVC filters, yes.

4 Q And are you aware that some of those  
5 events have undesirable effects on the patient and  
6 some don't?

7 MR. O'CONNOR: Form.

8 THE WITNESS: Well, I'm not a medical  
9 expert so I can't really answer that question.

10 BY MS. DALY:

11 Q Fair enough.

12 And similarly, as an -- as an engineer,  
13 you're not qualified to give an opinion as to what  
14 the benefits are of any -- to any given patient of  
15 the use of an IVC filter, true?

16 MR. O'CONNOR: Form.

17 THE WITNESS: No, I would not do that. I  
18 would not offer such opinions on the benefits.

19 BY MS. DALY:

20 Q Okay. Are you giving any opinions in this  
21 litigation that Bard complied with or failed to  
22 comply with any specific FDA regulations?

23 A No, I'm not offering such opinions.

24 Q If you look at page 10 of the report  
25 you're looking at now, you say that "Bard was not

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1 frank and honest with the FDA and did not fully  
2 inform the FDA of deficiencies in the G2 filter."

3 Do you see that? It's at the very last  
4 long sentence at the bottom of 10.

5 A Yes. I see that.

6 Q What's the basis for your opinion?

7 A The basis, I'm relying on Dr. Parisian for  
8 that opinion.

9 Q Okay. You have not reviewed the materials  
10 that she has reviewed, for example, true?

11 A I've not reviewed --

12 MR. O'CONNOR: Form.

13 THE WITNESS: -- all of that material. I  
14 probably have seen some of it.

15 BY MS. DALY:

16 Q And to your point a moment ago that you  
17 are not giving opinions about FDA regulations, is  
18 it also fair to say that you are not giving  
19 opinions about what Bard's corporate behavior was  
20 vis-a-vis what was expected by the FDA?

21 A I'm --

22 MR. O'CONNOR: Form.

23 THE WITNESS: I'm not offering such  
24 opinion. Although may I go back and add to my  
25 answer to your previous question --

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1 severe stiffness constraint on whether the relative  
2 motion of the arms and the legs can be accommodated  
3 as the filter, if you like, tries to stretch. So  
4 that -- that's a possibility.

5 Q Do you have any case that you can point to  
6 that you have worked on where there was imaging  
7 evidence of perforation, tilt or migration that  
8 occurred before a leg fracture?

9 A I haven't looked into that.

10 MR. O'CONNOR: Belated objection to the  
11 form of the question.

12 BY MS. DALY:

13 Q Have you done any work to determine what  
14 modifications Bard could have made to the legs  
15 themselves to improve on those legs' contribution,  
16 if any, to tilt, perforation, fracture or  
17 migration?

18 A No, I haven't looked into that.

19 Q We've talked a little bit about the  
20 anchors and limiters present on the Meridian. Is  
21 it your opinion that those are reasonable  
22 modifications by Bard to -- to improve resistance  
23 to migration, tilt and perforation?

24 A It's a reasonable concept for how the tilt  
25 and migration behavior can become -- can be

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1 limited.

2 Q Would -- do you have an opinion whether  
3 those anchors or limiters on the Meridian would add  
4 fracture resistance to that filter?

5 A I have no opinion on that.

6 Q Same questions with Denali, do you think  
7 that the limiters that the Denali has will act to  
8 improve resistance to migration, tilt, perforation  
9 and fracture?

10 MR. O'CONNOR: Form.

11 THE WITNESS: It's -- it is reasonable to  
12 expect that there will be some effect on -- on tilt  
13 and migration and that those would have possible  
14 knock-on consequences to perforation and fracture.  
15 And so I'd like to revise my answer about the  
16 Meridian in the same way, that the caudal anchors,  
17 to the extent they limit tilt and migration, they  
18 could have beneficial effects on perforation and  
19 fracture.

20 BY MS. DALY:

21 Q Okay. What modifications to the G2 filter  
22 assisted in resistance to cephalic migration? Do  
23 you have an opinion on that?

24 MR. O'CONNOR: Form.

25 THE WITNESS: I'm not aware of any changes

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1           that would have had an impact on cephalic  
2           migration.

3           BY MS. DALY:

4           Q       Are you aware that the incidents of  
5           cephalic migration of G2 and later Bard filters  
6           has -- has improved greatly?

7           A       I'm not aware of that.

8           Q       What about the change to the G2 filter  
9           contributed to caudal migration, if you have an  
10          opinion?

11          MR. O'CONNOR:   Form.

12          THE WITNESS:   Sorry, can you repeat the  
13          question.

14          BY MS. DALY:

15          Q       Yeah.

16                  Do you have an opinion about whether any  
17          design modification that Bard made to the G2 filter  
18          resulted in caudal migration?

19          A       You mean going from the Recovery to the G2  
20          filter --

21          Q       Yeah.

22          A       -- whether that improved caudal migration?

23          Q       No, whether it caused it.

24          A       Whether it contributed to it.

25          Q       Yes.

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1           A     I have no opinion on that because I have  
2     not studied it.

3           Q     Okay. Have you studied what the mechanism  
4     is anatomically to create caudal migration in any  
5     Bard filter?

6           A     I've not studied that independently.

7           Q     Okay.

8           A     I've only --

9           Q     What does that mean?

10          A     What does it mean. I've looked at the  
11     Bard report of their bench test --

12          Q     Okay.

13          A     -- and -- which is suggestive of a  
14     mechanism that can drive caudal migration.

15          Q     Okay.

16          A     Because it's -- because it's associated  
17     with tilt.

18          Q     Okay. And have you done any work to  
19     determine how Bard might have modified its filters  
20     to reduce tilt that you associate with caudal  
21     migration, with contributing to caudal migration?

22                 MR. O'CONNOR: Form.

23                 THE WITNESS: Well, the only observation I  
24     have is that the effective caudal anchors would  
25     have had a beneficial effect, but otherwise I've



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1 done no thinking or studying of that.

2 BY MS. DALY:

3 Q All right. If you look at your report,  
4 page 13, it's the G2 Express filter.

5 A Yes.

6 Q We've talked about the cap change I think  
7 exhaustively.

8 A Yes.

9 Q And did you have any other observation of  
10 the G2 Express as -- as having characteristics that  
11 that particular filter had that contributed to any  
12 of these complications different from Recovery and  
13 G2?

14 A Well, the cap -- sorry, the hook on the  
15 cap, because it would have touched -- during tilt  
16 it would have been touched, under certain  
17 assumptions about how the filth occurs, it would  
18 have touched the wall of the vena cava first as  
19 opposed to other points on the cap, and that would  
20 have had some effect on what happens in terms of  
21 perforation and tilting of the -- of the filter.

22 And it's my assumption that the big hook  
23 would have taken -- would have been -- would have  
24 taken longer to perforate through the wall of the  
25 vena cava than the cap itself, although that's just

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1 A I don't have any information on that.

2 Q What about its ability to migrate either  
3 cephalad or caudal, do you have any information on  
4 that?

5 A I have no direct information on that.

6 Q So your criticism is that there are  
7 aspects of the Denali that in your opinion will  
8 allow it -- make it that it can tilt, perforate,  
9 fracture or migrate?

10 A Yes. And I -- I -- I should comment that  
11 there is some description of -- of events for the  
12 Denali in the supplementary report.

13 Q Right. Right. And I'm going to --

14 A I don't mean to ignore --

15 Q -- get to those.

16 A -- that.

17 Q Yeah, I'm going to get to those.

18 Okay. Do you know of modifications to the  
19 Bard filters, any of them, that would have made  
20 them unable to fracture, tilt, perforate or  
21 migrate?

22 MR. O'CONNOR: Object to the form of the  
23 question.

24 May I hear the question back again.

25 THE WITNESS: Could you repeat the

1 question.

2 MS. DALY: Can you read that one.

3 (Record read as follows:

4 "Do you know of modifications to  
5 the Bard filters, any of them,  
6 that would have made them unable  
7 to fracture, tilt, perforate or  
8 migrate?")

9 THE WITNESS: I haven't studied that.

10 BY MS. DALY:

11 Q So you -- you do not have an opinion that  
12 there was a method by which Bard could eliminate  
13 tilt, fracture, perforation or migration in any one  
14 of its iterations from Recovery to Denali?

15 MR. O'CONNOR: Form and foundation.

16 THE WITNESS: You mean simultaneously  
17 eliminate all of those negatives?

18 MR. O'CONNOR: Form.

19 BY MS. DALY:

20 Q Or one by -- or any of them, either all of  
21 them or, yes, you could -- you could have  
22 eliminated completely this, this or this.

23 A Well, I -- I think it's possible to  
24 eliminate one of the phenomena by itself but --

25 Q What's that?

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1           either with your analysis?

2           A       No, I have not.

3                   MR. O'CONNOR:   Form.

4       BY MS. DALY:

5           Q       Okay.   Are you aware of any FDA  
6       regulations relating to testing that Bard failed to  
7       meet?

8                   MR. O'CONNOR:   Form.

9                   THE WITNESS:   I'm -- I'm not giving any  
10      opinion on what they did relative to requirements  
11      of the FDA.

12     BY MS. DALY:

13           Q       All right.   Thank you.

14                   Are you going to provide an opinion that  
15      Bard had a higher rate of any particular type of  
16      complication relative to other filters?

17                   MR. O'CONNOR:   Form.

18                   THE WITNESS:   I'm not going to offer any  
19      opinion on the relative rates of complications of  
20      one filter versus another.

21     BY MS. DALY:

22           Q       What about one Bard filter versus another  
23      Bard filter?

24           A       I'm not going to give an opinion on that  
25      because I don't have enough data to truly assess

1 the situation.

2 Q Okay. You're not going to give opinions  
3 on your interpretation of medical literature that  
4 reports on various incidents of complications then;  
5 is that correct?

6 A I'm not going to give opinions on what's  
7 in the medical literature, other than to say that  
8 they're consistent with my assessment of the  
9 engineering considerations of the filter and that  
10 they tend to confirm that the filters are --  
11 have -- are dangerous.

12 Q Well, let's talk about that a minute.  
13 What you -- what you would take from medical  
14 literature is that there are reports of, for  
15 example, fracture, perforation, tilt and migration  
16 in Bard filters, true?

17 A Yes, that's correct.

18 Q And you also see medical literature that  
19 says that there are perforations, tilts, migration  
20 and fractures in other IVC filters on the market,  
21 true?

22 A I'm aware of those reports.

23 Q Okay. And so what did you -- how are you  
24 using medical literature to support a conclusion of  
25 dangerousness? That's where I'm --

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1 Q Did you read her report?

2 A I read it at the time that I wrote this  
3 report.

4 Q Okay. Did you review any of the actual  
5 data that she analyzed?

6 A I looked at tables and other information  
7 in her reports. So in that sense I -- I reviewed  
8 it.

9 Q Her Excel sheets, did you --

10 A No, I didn't --

11 Q -- review her --

12 A No, I did not look at her Excel sheets.

13 Q Okay. Do you know what information her  
14 spreadsheets contain or don't contain with respect  
15 to information about the Simon nitinol filter  
16 versus other Bard filters?

17 A Well, I understand that the -- her Excel  
18 sheets contain information about failures that were  
19 identified in Bard and -- well, Bard filters and  
20 that the source of some of that information was  
21 more data, and so on.

22 Q Do you know what time frames she had data  
23 for -- data from?

24 A I would need to look at her report to give  
25 you a specific answer to that.

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1 Q Okay. If I tell you that she had data on  
2 the Simon nitinol from 2004, do you know that one  
3 way or another?

4 A I --

5 MR. O'CONNOR: Form.

6 THE WITNESS: I don't know that  
7 information, but I could establish it by reviewing  
8 her report.

9 BY MS. DALY:

10 Q Well, it -- that's fine.

11 You did not perform any of the biostat- --  
12 biostatistical calculations that went into her  
13 report, true?

14 A No, I -- yes, that's true, I did not carry  
15 out any of those calculations.

16 Q And you did not independently verify her  
17 work?

18 A No.

19 Q Did you provide her with any information  
20 that she used in her report or that she  
21 considered --

22 A No --

23 Q -- as far as you know?

24 A -- I provided her no information.

25 Q Have you talked to her about the report?

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1 Q You received it from an attorney?

2 A I received it from an attorney.

3 Q Okay. And you had not had that before?

4 A No, I had not had an exemplar in my  
5 possession before.

6 Q Did your examination of the exemplar  
7 change anything that you've written in the rebuttal  
8 report about the SNF --

9 A No.

10 Q -- or how it compares --

11 A No.

12 Q -- to the Bard filters?

13 A No.

14 Q All right. You -- to do your rebuttal  
15 report, you looked at the engineering drawings for  
16 the SNF --

17 A Correct.

18 Q -- is that true?

19 A That's correct.

20 Q What else did you look at?

21 A I looked at -- well, I was looking at the  
22 510(k) for the Recovery --

23 Q Okay.

24 A -- and it told me various things to do  
25 with changes that were made, such as the diameter



1 of the -- of the limbs and the material of which  
2 the filters were made, and so that enabled me to  
3 draw conclusions about how to compare the Simon  
4 nitinol with the other filters.

5 Q Okay. And the Simon nitinol filter is  
6 basically -- got a round -- a rounded dome with  
7 petals. You've got a good diagram of that at the  
8 back of the report. And then legs on the bottom,  
9 six legs?

10 A That's correct, yes.

11 Q Okay. What design characteristics of the  
12 Simon nitinol filter make that filt- -- made that  
13 filter not retrievable percutaneously?

14 MR. O'CONNOR: Form and foundation.

15 THE WITNESS: Well, I'm not entirely sure  
16 because I've not investigated that situation, but  
17 it's my surmise that it is the extent of -- of  
18 connection among the wire -- wires of the petals  
19 and the vena cava wall which presents more material  
20 that can bond from the vena cava wall to the petals  
21 of the -- of the filter, and so that will generate  
22 a robust connection between the filter and the vena  
23 cava wall.

24 BY MS. DALY:

25 Q Did --

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1           A     And also the -- the legs do seem to  
2     perforate to some extent through the wall of the  
3     vena cava, and I -- I'm assuming that that would  
4     present complications upon retrieval.

5           Q     Did you investigate whether once deployed  
6     that petal formation was at all difficult to slim  
7     back down, if you will, to crimp it into a sheath  
8     for retrieval?

9           A     Well, I made an estimate of the stiffness  
10    of those petals, and so although I didn't make a  
11    comparison with what is required to put it into the  
12    delivery sheaths, I -- I did have the analysis at  
13    hand from which that could be undertaken.

14          Q     And you determined they were pretty stiff?

15          A     They're -- they're

16          Q     Not to use a good engineering term.

17          A     Yeah, they're -- they're stiff compared to  
18    the Bard arms -- sorry, the arms on the Recovery,  
19    the G2, and other subsequent filters.

20          Q     And the legs are stiffer than the Recovery  
21    and other retrievable --

22          A     Yes.

23          Q     -- Bard filters as well?

24          A     That's correct.

25          Q     Okay. You understand that the -- that

1 filter overall, anything like that, that  
2 contributes to migration resistance?

3 A Well, the diameter of the wire controls  
4 the stiffness of the wire -- of the components that  
5 are made from the wire, so that has a -- that has  
6 an effect, which I've already alluded to in the --  
7 in the answers I just gave.

8 Q Okay.

9 A The length of the petals and the lengths  
10 of the legs also contribute to controlling the  
11 stiffness, so those would contribute as well. And  
12 I'm not sure if I can identify anything else, but  
13 those were -- those would be the things that I  
14 would identify.

15 Q Did you do any analysis of how one would  
16 make changes to either the petal dome or the legs  
17 of the SNF to allow it to be retrievable?

18 A Can I augment my answer of just a second  
19 ago? The -- the diameter or the span of the petals  
20 and the span of the arms -- the legs relative to  
21 the diameter of the vena cava would contribute to  
22 the forces which are involved and, therefore,  
23 contribute to the question of whether migration is  
24 or is not likely in the Simon nitinol filter.

25 But to move on to your subsequent

## In Re: Bard IVC Filters Products Liability

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1 question, I didn't make -- do any analysis to look  
2 at what changes might -- what changes -- what  
3 impact they would have on the behavior of the -- of  
4 the filter.

5 Q Including the last thing that you just  
6 mentioned to me, the difference in span?

7 A Yes.

8 Q How that might have to be re-engineered to  
9 allow for retrieval?

10 A I did not look at that.

11 Q Okay. The next thing that I saw from your  
12 report was that the design of the SNF legs make  
13 them more prone to perforation than the struts of  
14 the Recovery and the G2?

15 MR. O'CONNOR: Where are you looking at in  
16 the report?

17 BY MS. DALY:

18 Q The different ones start on page 11. Your  
19 first one was migration, and then the little B on  
20 page 11 is where I'm reading from right now.

21 I'm sorry, that's not where I got it from.  
22 Go to page 13. I apologize. B on page 13.

23 A Yes.

24 Q So I think what you concluded there was  
25 that the legs of the Simon nitinol were more prone